REMARKS

Summary

Claims 39-76 are pending in this application. Claims 1-38 were previously canceled. Claims 39, 62 and 76 are currently amended. Support for the amendments can be found throughout the specification, specifically at paragraphs [0025] and [0026]. No new matter has been added. In the Office Action mailed on March 4, 2009, claims 39-76 were rejected. In view of the following remarks, favorable reconsideration and allowance of the standing claims are respectfully requested.

Rejections Under 35 U.S.C. § 103

At page 2, paragraph 3 of the Office Action claims 39-40 and 44-76 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kolawa et al., United States Patent No. 6,370,513 ("Kolawa") in view of Cosentino et al., United States Patent No. 6,290,646 ("Cosentino") and further in view of Petot, et al. article: "An artificial intelligence system for computer-assisted menu planning" ("Petot"). At page 3, paragraph 5 of the Office Action claims 42-43 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kolawa, Cosentino, Petot and further in view of Brown, United States Patent No. 6,168,563 ("Brown"). Applicant respectfully traverses the rejections, and requests reconsideration and withdrawal of the obviousness rejections.

Applicant respectfully submits that claims 39-76 define over the cited references whether taken alone or in combination. However, solely in an effort to further prosecution, independent claims 39 and 76 have been amended to recite the following, in relevant part:

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>evaluating a nutritional content of each food item;
>establishing preselected nutritional criteria;

>***
>suggesting menu sets in accordance with said preselected
>nutritional criteria to said food service professionals;

Independent claim 62 has been amended to recite, in part:

>a computer-implemented arrangement for establishing preselected
>nutritional criteria;

>***
>a computer-implemented arrangement for suggesting menu sets in
>accordance with said preselected nutritional criteria to said
>food service professionals;

Thus, the presently amended claims require that the inventive *system* evaluates nutritional data and establishes preselected nutritional criteria based upon this data.

In contrast, Kolawa is directed to an automated recommendation system that provides recommendations based on user preferences. In the case of food, the user preference generally comprises taste. As acknowledged by the Examiner, Kolawa does not teach providing a remote link to food service professionals, collecting information from food service professionals, or suggesting menu sets to the food service professionals. See Office Action date July 18, 2008, page 5. Applicant respectfully submits that Kolawa neither teaches nor suggests a system which evaluates nutritional data and establishes preselected nutritional criteria based upon this data. The automated recommendation system of Kolawa simply offers suggestions based upon criteria provided by the user. The system of Kolawa does not evaluate the inputted data based upon preselected criteria, as now recited in amended claims 39, 62 and 76.

In addition, Applicant disagrees with the Examiner's contention that the combined references teach the limitation of "shaping menu sets of said recipes for each of said established therapeutic diet types in a menu database in said system based upon assigned foot attributes" as recited in claim 39. See Office Action pages 3-4. Applicant disagrees with the assertions in the Office Action that the menus generated in Kolawa are shaped based on assigned food attributes consisting of verified nutritional values. As explained in detail in the previously submitted response, Applicant submits that the menu recommendations provided in Kolawa are based on taste and learned user preferences. Specifically, Applicant directs the Examiner's attention to Kolawa, column 9, lines 15-21, teaching a series of inquires directed towards the existence of general health conditions for the creation of a family food preference vector. Modifying a family's food preference vector based on responses to questions is distinguishable from shaping menus based on verified nutritional values. Stated differently, claim 39 requires that menus be shaped based on assigned food attributes that are based upon verified nutritional values of food items in each recipe of the menu. In contrast, the menus in Kolawa are based upon user preferences and user responses to particular questions.

Kolawa further teaches selecting foods for a menu based on user preferences and feedback received from the user. See, for example, column 11, lines 3-7 and 40-49. As a further illustration, a user preference vector may be modified if a recommended recipe was rejected because it was too spicy. This is clearly distinguishable from the language of claim 39 in that no use of verified nutritional values is even discussed with respect to menu selection.

The Examiner's reliance on the terms "attributes" and "chemical components" as disclosed in Kolawa to satisfy the requirement of "assigned food attributes" incorrectly

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characterizes these terms as being analogous to the "assigned food attributes" required by claim 39. The "attributes" and "chemical components" of Kolawa include types of food, taste characteristics and ingredients, for example. At figures 26A-D and the accompanying text starting at column 21, line 28, Kolawa describes various GUIs for adjusting the weights of the chemical compositions of a recipe. As stated at column 21, lines 31-33, "[t]he weights 960 are preferably set based on the contribution of each chemical compositino to a dish's taste...." In contrast, the "assigned food attributes" required by claim 39 are defined as attributes based on verified nutritional values of recipes. Consequently, Kolawa fails to disclose at least the above identified missing language.

Applicant respectfully submits that Cosentino fails to satisfy the deficiencies of Kolawa. Cosentino teaches a method of monitoring and transmitting physiological and wellness parameters of overweight/obese patients to a remote site where a *weight management professional or nutritionist* evaluates the parameters and can supervise and provide nutritional guidance to remotely located individuals.

Cosentino at column 2, lines 42-47, in relevant part, teaches:

> Furthermore, the individual can participate on a weight management program while under professional supervision from the privacy and comfort of their own home. Moreover, the apparatus allows *the weight management professional to intervene and adapt* the individual's diet and exercise routine based on the weight and wellness information received.

(Emphasis added). Cosentino further teaches an apparatus which measure a patient's weight and then transmits this measurement to a medical care provider. Cosentino at column 11, lines 32-36, in relevant part, further teaches: "If significant symptoms an/or excessive weight changes are

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reported, the system alerts the *medical care provider who may provide a change* to the patient's medication dosage, or establish further communication with the patient such as placing a telephone to the patient." (Emphasis added). Cosentino provides for an apparatus to monitor and transmit data to a remote site "whereby a medical professional caregiver can evaluate such physiological and wellness parameters and make decisional regarding the patient's treatment." Column 12, lines 50-54. In contrast to Applicant's presently claimed invention, Cosentino teaches a system which relays information to a user, wherein the user evaluates the information and makes decisions based upon the data. Cosentino neither teaches nor suggests a *system* which establishes preselected nutritional criteria and suggests menu sets in accordance with the preselected nutritional criteria to a food service professional, as recited in the currently amended claims.

Finally, Applicant submits that Petot and Brown fail to remedy the above identified deficiencies of Kolawa and Cosentino. Petot describes several systems used to assist in menu planning. See, for Example, page 1014, column 1, paragraph 2 to column 2, paragraph 1. Petot, however, fails to teach or suggest a *system* which establishes preselected nutritional criteria and suggests menu sets in accordance with the preselected nutritional criteria to a food service professional. For instance, Petot teaches at page 1011, right column, second paragraph: "PRISM displays the menu and allows the *user* to conduct a "what if" analysis, adding or deleting foods, and seeing the effects on nutrient content." (Emphasis added). The system in Petot "...allows *users* to propose and evaluate creative food combinations." (Emphasis added). Petot, page 1011, right column, fifth paragraph. Petot further describes the CAMPER program (a hybrid program created by the authors) as follows: "With CAMPER, the user may ask to add, delete, or

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replace foods in the recommended menu." Petot, page 1012, left, column, third paragraph. Thus, the teaching of Petot is directed to an artificial intelligence algorithm to assist in the menu planning on a local computer. Petot, page 1010, column 1, paragraph 3 to column 2, paragraph 1. Petot does not teach a *system* which establishes preselected nutritional criteria and suggests menu sets in accordance with the preselected nutritional criteria to a food service professional, as not recited in amended independent claims 39, 62 and 76.

Brown teaches a system and method to remotely monitor a patient. The system includes a health care provider monitor and a remotely programmable patient apparatus. See Abstract. The system monitors the patient health condition through a series of queries and transmits this data to the health care provider. See Col. 25, lines 26 - 42. The patient information is then processed by the health care provider. See Col. 29, lines 12-22. For Example, Brown at column 21, lines 32-53 teaches tracking a patient's blood glucose readings in connection with food information entered into the system by the patient along with the blood glucose readings. More particularly, Brown, however, does not teach a *system* which establishes preselected nutritional criteria and suggests menu sets in accordance with the preselected nutritional criteria to a food service professional, as not recited in amended independent claims 39, 62 and 76. In Brown, the analysis and evaluation of the patient data is performed by the health care provider and not by the monitoring system. Consequently, the cited references, whether taken alone or in combination, fail to disclose, teach or suggest every element recited in claims 39, 62 and 76.

For at least these reasons, Applicant submits that claim 39 is patentable over the cited references, whether taken alone or in combination. In addition, claims 62 and 76 recite features similar to those recited in claim 39. Therefore, Applicant respectfully submits that claims 62 and

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76 are not obvious and are patentable over the cited references for reasons analogous to those

presented with respect to claim 39. Accordingly, Applicant respectfully requests removal of the

obviousness rejection with respect to claims 39, 62 and 76. Furthermore, Applicant respectfully

requests withdrawal of the obviousness rejection with respect to claims 40-61 and 63-75 that

depend from claims 39 and 62 respectively, and therefore contain additional features that further

distinguish these claims from the cited references.

Conclusion

It is believed that claims 39-76 are in allowable form. Accordingly, a timely Notice of Allowance to this effect is earnestly solicited.

The Examiner is invited to contact the undersigned at 412-918-1100 to discuss any matter concerning this application.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. § 1.16 or § 1.17 to the previously authorized deposit account.

Respectfully submitted,

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